

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE REAL ESTATE APPRAISERS BOARD

COPY

In the Matter of

KUISUN PAK

Certification #42RG00201300

CONSENT ORDER

This matter was opened before the New Jersey State Real Estate Appraisers Board (the "Board") upon the Board's receipt of a complaint regarding an appraisal that respondent Kuisun Pak prepared on commercial property located at 7 Broad Avenue, Palisades Park, New Jersey, dated December 8, 2008 (the "subject property appraisal"). The Board subsequently conducted an investigation, and considered both a written statement from respondent and testimony offered by respondent when he appeared before the Board for an investigative hearing on January 26, 2010, represented by Blake Reed, Esq. (appearing *pro hac vice*). Respondent has subsequently been represented by Dennis A. Scardilli, Esq.

Based on review of available information, the Board finds that respondent prepared an appraisal of a four story commercial building, built in 2007, which included 22 units for commercial lease. Respondent appraised the property both as "stabilized" and

"as is," concluding that the value of the property was \$18,200,000 as "stabilized" and \$17,940,000 "as is." In order to determine the "stabilized value" of the property, respondent applied a hypothetical condition that "the subject is leased to a level market occupancy, in this case 95%."

At the time that respondent prepared the subject property appraisal in December 2008, the property was in fact leased at 60% occupancy. Significantly, at that time, the leasehold market for commercial properties in and around Palisades Park, New Jersey was experiencing a significant downturn.

The Board finds that respondent failed to ensure that the subject property appraisal report was prepared in a manner consistent with the requirements of the Uniform Standards of Professional Appraisal Practice (the "USPAP") for the following reasons:

- 1) Respondent failed to address, or even mention, the prevailing market conditions within his report, and instead prepared a "retail market analysis" which set forth outdated and inaccurate information, to include, without limitation, the wholly unsubstantiated statement that "the retail market may have slowed its pace, but it has not softened. Over the long term, the retail market is expected to continue its leveling momentum." Additionally, respondent failed to focus upon conditions that were

specific to Palisades Park, New Jersey, but instead considered generalized regional information in his report.

2) Respondent inappropriately failed to conduct his valuation of the property in its "as is" condition upon actual data and conditions - to include the fact that the actual occupancy rate of the property was 60%. Respondent instead unreasonably based his "as is" valuation on his speculative assumption that the property would lease up to stabilized occupancy under competent management within twelve months of the date of the appraisal, notwithstanding the absence of any empirical or factual data to support the assumption and notwithstanding that the assumption was entirely inconsistent with extant market conditions at the time that the report was prepared. As a result, respondent's stated conclusion that the "as is" value of the property was \$17,940,000, or 98.6% of the value of the property when appraised with the hypothetical condition that the property would lease to 95% occupancy - was grossly overstated.

3) Respondent's analysis of the "stabilized" value of the property was inappropriately predicated on respondent's use of the hypothetical condition that the property would lease to 95% occupancy. While an appraiser may employ a "hypothetical condition" when preparing an appraisal, he or she may only do so when the use is clearly required for legal purposes, for purposes

of reasonable analysis or for purposes of comparison and when use of the hypothetical condition results in a credible analysis. In this case, respondent's use of the hypothetical condition that the property would lease to 95% diluted the credibility of the analysis within the report.

In addition, the Board found that respondent prepared his report in a manner to make it appear that Lakeland Bank had retained respondent to prepare the report, when in fact Lakeland Bank never contracted or engaged respondent to prepare the appraisal report. By doing so, respondent failed to appropriately identify his client and intended users of the appraisal.

Based on the above findings, the Board concludes that respondent violated Standards Rules 1-1 (b), 1-2 (g), 1-4(c)(iv) and 2-1 (b) and (c) when he prepared the subject property appraisal. Respondent's failure to have prepared a report that conformed to the requirements of the USPAP is a violation of N.J.A.C. 13:40A-6.1(a) (requiring appraisers to ensure that appraisals conform to the USPAP in effect on the date on which the appraisal is prepared), which in turn provides grounds for disciplinary sanction pursuant to N.J.S.A. 45:1-21(h) (violation of, or failure to comply with, the provisions of an act or regulation administered by the Board). In entering this Order, respondent does not contest the findings made by the Board, but maintains that any

violations were unintentional. The parties desiring to resolve this matter without need for additional administrative proceedings, and the Board being satisfied that good cause exists for the entry of the within Order,

IT IS on this *24th* day of January, 2012

ORDERED and AGREED:

1. Respondent is hereby formally reprimanded for having violated N.J.A.C. 13:40A-6.1(a) by having prepared an appraisal that failed to conform to the USPAP, for the reasons set forth above.
2. Respondent Kuisun Pak is hereby assessed a civil penalty in the amount of \$5,000, which penalty shall be paid in full upon entry of this Order.
3. Respondent Kuisun Pak is hereby assessed costs of investigation, in the amount of \$450.50, which costs shall be paid in full upon entry of this Order.
4. Respondent shall, within six months of the date of entry of this Order, take and successfully complete the following courses: 1) a 15 hour course in the Uniform Standards of Professional Appraisal Practice; 2) a 40 hour course in "advanced concepts and case studies;" and 3) a 35 hour course in "advanced market analysis and highest and best use." Respondent shall be required to secure pre-approval from the Board for any courses he

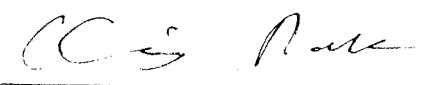
proposes to take to satisfy the requirements of this paragraph. The course shall be taken in a classroom setting (that is, the Board will not approve an "on-line" course). For purposes of this paragraph, "successfully complete" means that respondent shall be required to pass any examination given at the end of the course and/or obtain a passing grade at the completion of the course. Respondent may not claim any continuing education credit for the completion of the course herein required.

NEW JERSEY STATE REAL ESTATE
APPRAISER BOARD

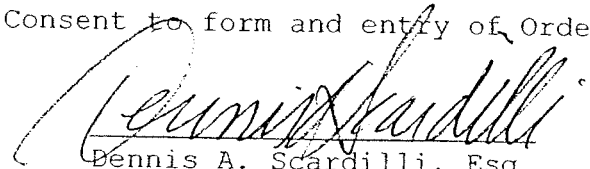
By:


Denise M. Siegel
Board President

I acknowledge that I have read and considered this Order, and agree to the entry of the Order as a matter of public record by the Board.


Kuisun Pak, SCGREA

Consent to form and entry of Order


Dennis A. Scardilli, Esq.